

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Lead Case No. 08-99000-smb

4 Case No. 08-01789-smb

5 - - - - - x

6 In the Matter of:

7 SECURITIES INVESTOR PROTECTION CORPORATION,

8 Plaintiff,

9 v.

10 BERNARD L. MADOFF INVESTMENT SECURITIES, LLC, et al.,

11 Defendants.

12 - - - - - x

13 Case No. 10-04468-smb

14 - - - - - x

15 In the Matter of:

16 IRVING H. PICARD, TRUSTEE FOR THE LIQUIDATION OF BERNARD L.

17 MADOFF INVESTMENT SECURITIES LLC,

18 Plaintiff,

19 v.

20 KEN-WEN FAMILY LIMITED PARTNERSHIP,

21 Defendants.

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1 United States Bankruptcy Court
2 One Bowling Green
3 New York, NY 10004
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5 August 29, 2018
6 10:06 AM
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21 B E F O R E :

22 HON STUART M. BERNSTEIN

23 U.S. BANKRUPTCY JUDGE
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25 ECRO: SHEA

1 HEARING re Twenty-Seventh Application Of Trustee And Baker &
2 Hostetler LLP For Allowance Of Interim Compensation For
3 Services Rendered And Reimbursement Of Actual And Necessary
4 Expenses Incurred From December 1, 2017 Through March 31,
5 2018

6
7 HEARING re Application Of Schiltz & Schiltz As Special
8 Counsel To The Trustee For Allowance Of Interim Compensation
9 For Services Rendered And Reimbursement Of Expenses Incurred
10 From December 1, 2017 Through March 31, 2018 And For Release
11 Of A Portion Of Fees Held Back

12
13 HEARING re Application Of Higgs & Johnson (Formerly Higgs
14 Johnson Truman Bodden & Co) As Special Counsel To The
15 Trustee For Allowance Of Interim Compensation For Services
16 Rendered And Reimbursement Of Expenses Incurred From
17 December 1, 2017 Through March 31, 2018 And For Release Of A
18 Portion Of Fees Held Back

19
20 HEARING re Twenty-Sixth Application of Windels Marx Lane &
21 Mittendorf, LLP for Allowance of Interim Compensation for
22 Services Rendered and Reimbursement of Actual and Necessary
23 Expenses Incurred From December 1, 2017 Through March 31,
24 2018 and Request for Partial Release of Holdback
25

1 HEARING re Application Of Soroker Agmon Nordman As Special
2 Counsel To The Trustee For Allowance Of Interim Compensation
3 For Services Rendered And Reimbursement Of Expenses Incurred
4 From December 1, 2017 Through March 31, 2018 And For Release
5 Of A Portion Of Fees Held Back

6
7 HEARING re Application Of Graf & Pitkowitz Rechtsnwalte Gmbh
8 As Special Counsel To The Trustee For Allowance Of Interim
9 Compensation For Services Rendered And Reimbursement Of
10 Expenses Incurred From December 1, 2017 Through March 31,
11 2018 And For Release Of A Portion Of Fees Held Back

12
13 HEARING re Application Of SCA Creque As Special Counsel To
14 The Trustee For Allowance Of Interim Compensation For
15 Services Rendered From December 1, 2017 Through March 31,
16 2018 And For Release Of A Portion Of Fees Held Back

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18 HEARING re Application Of Young Conaway Stargatt & Taylor,
19 LLP As Special Counsel To The Trustee For Allowance Of
20 Interim Compensation For Services Rendered And Reimbursement
21 Of Actual And Necessary Expenses Incurred From December 1,
22 2017 Through March 31, 2018 And For Release Of A Portion Of
23 Fees Previously Held Back

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1 HEARING re Application Of Williams, Barristers & Attorneys
2 As Special Counsel To The Trustee For Allowance Of Interim
3 Compensation For Services Rendered From December 1, 2017
4 Through March 31, 2018 And For Release Of A Portion Of Fees
5 Held Back

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7 HEARING re Application Of UGGC & Associes As Special Counsel
8 To The Trustee For Allowance Of Interim Compensation For
9 Services Rendered From December 1, 2017 Through March 31,
10 2018 And For Release Of A Portion Of Fees Held Back

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12 HEARING re Application Of Browne Jacobson, LLP As Special
13 Counsel To The Trustee For Allowance Of Interim Compensation
14 For Services Rendered And Reimbursement Of Actual And
15 Necessary Expenses Incurred From December 1, 2017 Through
16 March 31, 2018 And For Release Of A Portion Of Fees Held
17 Back

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19 HEARING re Application Of Eugene F. Collins As Special
20 Counsel To The Trustee For Allowance Of Interim Compensation
21 For Services Rendered From December 1, 2017 Through March
22 31, 2018 And For Release Of A Portion Of Fees Held Back

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1 HEARING re Application Of Ritter Schierscher Rechtsanwälte
2 As Special Counsel To The Trustee For Allowance Of Interim
3 Compensation For Services Rendered From December 1, 2017
4 Through March 31, 2018 And For Release Of A Portion Of Fees
5 Held Back

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7 HEARING re Application Of Robbins, Russell, Englert, Orseck,
8 Untereiner & Sauber LLP As Special Counsel To The Trustee
9 For Allowance Of Interim Compensation For Services Rendered
10 From December 1, 2017 Through March 31, 2018 And For Release
11 Of A Portion Of Fees Held Back

12
13 HEARING re Application Of The Scaletta Law Firm, PLLC As
14 Special Counsel To The Trustee For Allowance Of Interim
15 Compensation For Services Rendered From December 1, 2017
16 Through March 31, 2018 And For Release Of A Portion Of Fees
17 Held Back

18
19 HEARING re Application for Interim Professional Compensation
20 / Spaulding & Landreth, PC As Special Counsel To The Trustee
21 For A Release Of A Portion Of Fees Previously Held For The
22 Prior Compensation Periods

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1 HEARING re Application Of Bedell Cristin Guernsey
2 Partnership As Special Counsel To The Trustee For A
3 Release Of A Portion Of Fees Previously Held For The Prior
4 Compensation Periods

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6 HEARING re Application Of Munari Giudici Maniglio Panfili e
7 Associati As Special Counsel To The Trustee For A Release Of
8 A Portion Of Fees Previously Held For The Prior Compensation
9 Periods

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11 HEARING re Application Of Cochran Allan As Special Counsel
12 To The Trustee For A Release Of A Portion Of Fees Previously
13 Held For The Prior Compensation Periods

14
15 HEARING re Application Of Kelley, Wolter & Scott,
16 Professional Association As Special Counsel To The Trustee
17 For A Release Of A Portion Of Fees Previously Held For The
18 Prior Compensation Periods

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20 HEARING re Application Of Kugler Kandestin, LLP As Special
21 Counsel To The Trustee For A Release Of A Portion Of Fees
22 Previously Held For The Prior Compensation Periods

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1 HEARING re Application Of Werder Vigano As Special Counsel
2 To The Trustee For A Release Of A Portion Of Fees Previously
3 Held For The Prior Compensation Periods

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5 HEARING re 10-04468-smb Telephonic Conference re Letter of
6 Young Conway Stargatt & Taylor, LLP, dated July 12, 2018
7 (ECF Adv. Proc. Doc. # 106)

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25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 BAKER HOSTETLER

4 Attorneys for BLMIS Trustee

5 45 Rockefeller Plaza

6 New York, NY 10111

7

8 BY: NICHOLAS J. CREMONA

9 IRVING H. PICARD

10

11 SECURITIES INVESTOR PROTECTION CORPORATION

12 1667 K Street, N.W.

13 Suite 1000

14 Washington, DC 20006

15

16 BY: KEVIN H. BELL

17

18 YOUNG, CONAWAY, STARGATT & TAYLOR, LLP

19 Attorneys for the Irving H. Piccard, Trustee

20

21 BY: MATTHEW LUNN (TELEPHONICALLY)

22 MICHAEL MILBURG (TELEPHONICALLY)

23

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25

1 LAW OFFICE OF MARK S. ROHER, P.A.

2 Attorneys for Ken-Wen Family Limited

3 150 S. Pine Island Road, Suite 300

4 Plantation, FL 33324

5
6 BY: MARK S. ROHER (TELEPHONICALLY)

7
8 ALSO PRESENT TELEPHONICALLY:

9
10 PATRICK MOHAN

11 DAVID J. SHEEHAN

1 P R O C E E D I N G S

2 THE COURT: Please be seated. Madoff.

3 MR. CREMONA: Good morning, Your Honor.

4 THE COURT: Good morning. Nicholas Cremona of
5 Baker & Hostetler appearing on behalf of the Trustee.

6 We're here this morning, Your Honor, on the return
7 date for the 27th application for interim compensation for
8 the Trustee and his counsel and all related professionals
9 that have assisted the Trustee in this enormous effort in
10 this liquidation, both domestically and internationally
11 during the period of December 2017 and March 2018.

12 I know Your Honor is aware of the significant
13 activity that has occurred during this interim period. Some
14 of the work was done during this period that led to
15 successes outside this period. And if Your Honor would
16 allow me, I will just go over it, at a high level, some of
17 those successes and the events that have taken a significant
18 amount of our time during the period.

19 For example, the Trustee reached a settlement, as
20 I know Your Honor is aware, with -- in the Merkin case with
21 Ascot Partners, Ezra Merkin and some related entities. That
22 settlement resulted in a \$280 million contribution to the
23 fund of customer property, which inures directly to the
24 benefit of the net loser victims that have claims in this
25 case.

1 During the period the Trustee and his counsel
2 litigated extensively, filed motions in limine that Your
3 Honor decided, in contemplation of a trial that was supposed
4 to occur in June of 2018. We also participated, before Your
5 Honor, on settlement conferences that led to the settlement
6 I mentioned.

7 An additional matter that took up a significant
8 amount of our time during the period is the Kingate matter,
9 where the Trustee is seeking to recover -- to avoid to
10 recover over \$926 million. The Trustee is continuing to
11 work on discovery, both domestically and abroad. I know
12 Your Honor is aware of the -- has issued letters permitting
13 discovery in foreign courts such as Bermuda and the UK, that
14 continues to be a significant undertaking. And just to
15 bring the Court up-to-date, the Trustee continues to conduct
16 depositions abroad and has done several over the last month.

17 Next, Your Honor, we have, as I know you're aware,
18 significantly litigated and resolved several of the good
19 faith, or as we refer to them "the innocent investor
20 avoidance actions." At the beginning of the interim period
21 at issue we had 209 cases pending, during the period we
22 resolved approximately 30, to bring that progress up-to-date
23 as we stand here today, we have approximately 151 cases left
24 at issue, and then we continue to resolve and settle cases
25 through mediation and otherwise on a weekly basis.

1 And just to bring Your Honor up-to-date, we were -
2 - we are mindful of the guidance we received last month as
3 to a motion and to bringing cases forward. We have several
4 cases that are trial ready, which we will bring to the Court
5 in the near term, and we are evaluating a motion and the
6 procedural posture of the remaining cases to determine
7 whether to seek additional or limited additional discovery
8 on the balance of the cases.

9 Next, Your Honor, we have spent a considerable
10 amount of time on the extraterritoriality appeal. Several
11 briefs were filed during the interim period. To bring the
12 Court up-to-date, as of right now the matter is fully
13 briefed and pending before the circuit. The clerk of the
14 court has reached out to the parties to determine whether
15 oral argument in November would be acceptable -- or --

16 THE COURT: Convenient.

17 MR. CREMONA: What's that? Convenient to the
18 parties. That has yet to be scheduled, but we fully expect
19 to have argument by year end.

20 Another matter I know Your Honor is intimately
21 familiar with, we had the profit withdrawal trial and that
22 was before the Court, significant briefing and a trial
23 actually occurred in January, and post-trial briefs were
24 completed in March. And just to bring the Court up-to-date,
25 to the extent you're not already aware, after Your Honor

1 decided in the Trustee's favor, that matter was appealed and
2 has now been assigned to Judge Engelmayer. And we will be
3 filing out designation --

4 THE COURT: He's becoming very familiar with these
5 cases.

6 MR. CREMONA: Yes. And so some of those positive
7 and successful recoveries have led to significant successes
8 by the Trustee and as a result of his overall efforts, which
9 go well beyond those which we've highlighted here today, the
10 Trustee has been able to recover \$13.28 billion for the fund
11 of customer property, which represents approximately 75
12 percent of the \$17.5 billion lost by those victims of the
13 Ponzi Scheme that filed claims. And as a result, after
14 accounting for adequate reserves for issues that have yet to
15 be resolved by final order, the Trustee has been able to
16 distribute \$11.9 billion to the victims, and that represents
17 63.9 cents on the dollar of each allowed claim.

18 And just to highlight a few of the firm that, in
19 addition to Baker Hostetler and Windels, that have expended
20 significant time during this period, just for Your Honor's
21 benefit, happen to be international firms. We had the
22 Soroker Agmon Nordman firm, which is assisting the Trustee
23 in Israel in prosecuting two actions there, and they relate
24 to the magnified defendants as I know Your Honor is
25 familiar, as you issued a decision in the last year on

1 denying the Defendant's motion to dismiss.

2 We also had the Williams Barrister firm that is
3 assisting the Trustee in Bermuda in monitoring third party
4 actions there and prosecuting claims.

5 Lastly, we have -- or in addition we have the
6 Browne Jacobson firm that is assisting in the UK,
7 particularly on the Kingate matter and assisting with
8 discovery and monitoring actions there, as well as in the
9 BVI.

10 Lastly, Your Honor, I'd mention our co-counsel,
11 the Windels Marks firm, who in addition to being conflicts
12 counsel here has been integrally involved in the ET appeal
13 and other matters and has been invaluable to -- in assisting
14 us.

15 There's one minor issue I would point out for the
16 Court with respect to the Windels fee application. We
17 noticed a discrepancy in the application that we wanted to
18 point out. Ultimately I think it's a clerical error that
19 doesn't have any impact, but we, again, wanted to point it
20 out. Throughout the application, the amount of the total
21 compensation during the period was incorrectly listed at
22 \$1,590,899.58. It should have been listed at \$1,954,132.

23 But I would point out that at various places in
24 the application it was correct. It was correct in the
25 exhibit, but more important than that, in the -- in all

1 places, in the application and the notice that went to all
2 parties, the amount of -- the 80 percent amount, which is
3 the amount that we're seeking approval of and payment here
4 today, was correct in all places. So as you'll see, Your
5 Honor, \$1,563,305.60 is listed everywhere that we're asking
6 for payment of the 80 percent, and that is 80 percent of the
7 \$1.9 million amount.

8 So we point this out because it is a clerical
9 error and we wanted the Court to be aware, but we'll correct
10 it going forward. But I will would say that it -- there was
11 no objection, the correct amount was noticed to all parties,
12 and SIPC approved the amount as listed.

13 THE COURT: I was going to ask if SIPC was aware
14 of its clerical error.

15 MR. BELL: Your Honor, we have the correct amount
16 that's in Exhibit B and we also have the correct 80 percent
17 amount because we monitor every penny.

18 THE COURT: Okay. Thank you.

19 MR. CREMONA: So Your Honor, absent any further
20 questions, given the progress and success during the interim
21 compensation period and the efforts expended, I would
22 respectfully request that the applications be allowed.

23 THE COURT: Thank you. Mr. Bell? You're going to
24 give me the count, right?

25 MR. BELL: Your Honor, I stand under what you

1 asked last December, today is day 3,549. And in light of
2 your request last December, it is 85,176 hours at the
3 current dock. I do have the minutes and seconds, if you
4 want me to go that far.

5 THE COURT: Well, they're going faster so we'll
6 never get out of here.

7 MR. BELL: Well, we're there, and in light of your
8 hearing on -- last month, on July 25th, and Mr. Cremona's
9 comments, it looks like we'll be having a very active docket
10 on these innocent investor cases. So that should be moving
11 us forward.

12 And as Mr. Cremona noted, and you and I have had
13 this dialogue before, there are possibilities that at some
14 point in time the SIPC recommendation will be a
15 recommendation and not under the statute, as we get closer.
16 Mr. Cremona's noted 75 percent and there are significant
17 matters that are going into mediation with the mediator
18 being a former bankruptcy judge on this bench. So you know,
19 that could, within the next year, cause that number to jump
20 tremendously higher.

21 But I would note, as I always do for the record,
22 that we deal with the SIPC statute here with various
23 sections and the standard is set forth in -- this is a no
24 asset case at this point in time, because we're still below
25 the 100 percent, and at this point in time we do not see any

1 reasonable expectation, other than in the wishes and desires
2 and intention of the statute, that we could get above 100
3 percent. What occurs during either the week of November
4 13th and the argument could have a major effect, a circuit
5 decision on extraterritoriality comity could have a
6 significant effect. Judge Engelmayer's decision, it was
7 argued yesterday, and there was a discussion regarding
8 prejudgment interest at the tail end and who does that,
9 whether it comes back for an R&R here or whether he does
10 that was the last matter discussed after the argument. So
11 we'll see what he does. And there was mention, and he asked
12 the question, and it was noted that Andrew Cohen was tried
13 and Judge Swain accepted the R&R and issued an order
14 accepting that. So I think that there is movement forward
15 that could move us forward with regard to that.

16 And when Mr. Cremona said 151 cases, I would note
17 to the Court, that there are 105 adversary proceedings that
18 made objections to what I call the omnibus proof of the
19 Ponzi motion, which leaves a number of 46. There are nine
20 to ten of those matters where there's a settlement in
21 principle, so you have 35 or so adversary proceedings that
22 are active. There are a number of those that are coming up
23 for mediation in the period of time, so as we move forward,
24 and Your Honor was, I think, very clear, on July 25th in
25 your instructions and putting the OPAC motion sine die that

1 we'll see movement. And movement means that there will be
2 more possibilities of raising that 75 percent number to the
3 statute ideal of getting back all the innocent victims who
4 have not received a hundred percent, that which is always
5 the goal here in this case.

6 With regard to Windels, in the SIPC recommendation
7 we have the number. The correct number is at page 17,
8 paragraph 21 for the Court's reference, in the text. It's
9 also in Exhibit B of the attachment. So if you look at page
10 17, top line of paragraph 21 on that page, you will see the
11 correct number which is the number we used. It's incorrect
12 in the beginning and in the wherefore, but it's correct
13 there and it's correct in Exhibit B, and we used that
14 because it reconciles with the number we have in our monthly
15 oversight of all time spent in this case.

16 As I said before, SIPC reviews, I review each and
17 every entry of each and every invoice of all 22 counsel
18 here, and then that's -- that review is reviewed by the
19 general counsel and the SIPC makes -- takes a position. So
20 we monitor this case almost on a daily, if not hourly, basis
21 as to where it's going and the time records help us to
22 understand where this case is.

23 Based on that, we would ask the Court, based on
24 your recommendations, to approve all these fee applications.
25 Does the Court have any questions?

1 THE COURT: No. Does anyone else want to be heard
2 in connection with the fee applications? Hearing no
3 response, I'll approve the fee applications. In light of
4 what appears to be the likelihood that the customer estate
5 will be insolvent in the sense of customers will not receive
6 -- or net losers will not receive 100 percent, SIPC's
7 recommendation and statute mandate. So you can submit an
8 order. Thank you.

9 MR. CREMONA: Thank you, Your Honor.

10 THE COURT: You have one other matter before you
11 go. That's the -- well, this is with Young Conaway, I
12 guess.

13 This is the Ken-Wen matter. Parties on the phone?

14 MR. NEIBURG: Good morning, Your Honor. This is
15 Michael Neiburg from Young Conaway Stargatt & Taylor on
16 behalf of Irving Picard as Trustee, Claimant in the Ken-Wen
17 adversary.

18 THE COURT: All right. Mr. Roher, are you on the
19 phone?

20 COURTROOM OPERATOR: Your Honor, there was no
21 check in from Attorney Mark S. Roher.

22 THE COURT: Um hmm. He's not on the phone?

23 COURTROOM OPERATOR: No, Your Honor, he's not.
24 You stated Mark S. R-O-H-E-R?

25 THE COURT: Yes.

1 COURTROOM OPERATOR: Yes. No, sir, he's not on
2 line at this time. And he did not check in this morning at
3 all.

4 THE COURT: All right. Why don't you inform Mr.
5 Roher I'm going to deny his motion without prejudice. He
6 didn't submit a memorandum of law and he raises a
7 significant legal issue, that is whether the -- his
8 liability as a general partner arises when the fraudulent
9 transfer occurs or when a judgment is entered and he
10 contends he's no longer a partner at that point.

11 So I'll deny his motion without prejudice based
12 upon his failure to submit a memorandum of law as required
13 by the local rules and based upon his failure to attend this
14 telephonic conference. You can submit an order.

15 MR. NEIBURG: Thank you, Your Honor.

16 THE COURT: All right.

17 (Court attends other matters)

18 COURTROOM OPERATOR: We just had a check-in at
19 10:26 for Mark Roher. He is on line now. Would you care
20 for his line to be opened in the matter of Irving Picard
21 Trust versus Ken-Wen Family --

22 THE COURT: Is Mr. -- well, is the representative
23 of Young Conaway still on the phone?

24 MR. NEIBURG: I am, Your Honor. I'm glad I stayed
25 here.

1 THE COURT: All right. Let me hear this.

2 COURTROOM OPERATOR: Your Honor, I have a question
3 as well?

4 THE COURT: Yeah.

5 COURTROOM OPERATOR: Are these two cases are they
6 related, the Securities Investment Protection Corporation
7 and the Ken-Wen Family case?

8 THE COURT: They are related in the sense that the
9 Securities Protection case is the umbrella Madoff case and
10 these are all adversary proceedings within that larger case.

11 COURTROOM OPERATOR: Yes, Your Honor. Okay.
12 Well, Mark's line is open at this time along with Matthew
13 substitute Michael.

14 THE COURT: All right. Mr. Roher?

15 MR. ROHER: Yes, Your Honor. Mark Roher, R-O-H-E-
16 R, on behalf of Defendant Kenneth W. Brown. I apologize for
17 the confusion, Your Honor. I had some issues connecting. I
18 really do apologize for any inconvenience.

19 THE COURT: Well, what I said before you got on
20 the phone was I was inclined or actually I did deny your
21 motion without prejudice because you haven't submitted a
22 memorandum of law and you've raised a significant legal
23 issue, that is a partner -- is the liability of a partner
24 determined at the time of the fraudulent transfer or is it
25 determined at the time of judgment is entered avoiding that

1 transfer.

2 MR. ROHER: Okay. Would you like me to submit --
3 what would you like me to do, Your Honor? I mean, I'm not
4 going to -- if that's what -- if you've ruled that way, I'm
5 not going to obviously --

6 THE COURT: Yeah, in addition -- look, in addition
7 you've submitted matters outside the pleadings and this is a
8 motion to dismiss, so I can't consider those matters. The
9 allegations in the complaint are that Mr. Brown was a
10 partner and you know, that's a legal sufficient allegation,
11 it's an allegation of fact. So I can't consider --

12 MR. ROHER: I understand, Judge.

13 THE COURT: -- the exhibits you gave me, or Ms.
14 Brown's affidavit. And frankly, all they say is that he
15 wasn't a partner in 2011, all of the transfers were before
16 then. What do you want to do with your motion? Do you want
17 the Trustee to respond to your motion? Because I'm probably
18 not going to grant it because of these insufficiencies?

19 MR. ROHER: Well, that's fine, Judge. I accept
20 your ruling.

21 THE COURT: Why don't you do --? Can I make a
22 suggestion?

23 MR. ROHER: Of course.

24 THE COURT: Withdraw your motion without
25 prejudice. If you want to make a motion based on the issue

1 I've identified, or any other issue that you think is
2 relevant, in connection with a motion to dismiss under
3 12(b)(6) you can certainly do that. But don't provide me
4 with affidavits and witnesses about whether Mr. Brown was or
5 was not a partner because the complaint alleges that he was
6 or you can make a motion for Summary Judgment and raise the
7 same issues and then you can submit materials outside the
8 pleadings.

9 MR. ROHER: Okay. I understand, judge. What
10 exactly is your ruling, just so I understand?

11 THE COURT: Well, if you want the trustee to
12 respond to your motion, I'll set a schedule, but I'm
13 probably going to deny your motion for the reasons stated.
14 Rather than --

15 MR. ROHER: I don't want -- sorry.

16 THE COURT: Rather than go through that exercise,
17 I'm suggesting you withdraw your motion and if you think you
18 have a legal basis to make the motion on the theory that --
19 well, I'm not even sure you could prevail. You said he's
20 not now a partner since the complaint alleges he is a
21 partner. Maybe you ought to think about making a motion for
22 Summary Judgment provided on the legal issue that you're
23 right that there's no liability until the judgment of
24 avoidance is entered, and since he's not a partner at that
25 point, he's not liable.

1 MR. ROHER: I understand, judge. Do you think it
2 -- just for -- and I don't want to make the trustee expend
3 funds on this matter. I'm not trying to do that, Your
4 Honor. I'm not trying to play games or anything, so I'm
5 going to going to require or ask that the Court do that.

6 Maybe the easiest way is just for the motion to be
7 -- well, I can withdraw the motion, but I guess the issue is
8 can I have 30 days to file an answer?

9 THE COURT: Let me ask. Mr. Lundy, do you have
10 any objection to the withdrawal of the motion without
11 prejudice.

12 MR. NEIBURG: Your Honor, it's Michael Neiburg. I
13 substitute for Mr. Lunn.

14 THE COURT: Okay.

15 MR. NEIBURG: Now, I think a denial, withdraw
16 without prejudice and giving the defendant 30 days to either
17 answer the complaint or to refile whatever motion defendant
18 deems sufficient would be fine with the trustee, Your Honor.

19 THE COURT: Okay, thank you. Mr. Roher, here is
20 what I want you to do, submit an order to me, a post-order
21 with a copy to Mr. Neiburg which deems the motion withdrawn
22 and gives you 30 days from today to file an answer or make a
23 motion with respect to the complaint. Okay?

24 MR. ROHER: Thank you.

25 THE COURT: All right. Thank you, gentlemen.

1 MR. ROHER: Thank you for letting me appear by
2 phone, judge. I appreciate it and I apologize for --

3 THE COURT: All right. It's probably hotter up
4 here than it is down there.

5 MR. ROHER: Yes, possibly. It may not rain as
6 much up there as it does down here.

7 THE COURT: Okay. Thank you.

8 MR. ROHER: Anyway, thank you again. I really
9 appreciate it, judge. Thank you.

10 (Whereupon these proceedings were concluded at
11 10:43 AM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.

Sonya Ledanski
Hyde

Digitally signed by Sonya Ledanski Hyde
DN: cn=Sonya Ledanski Hyde, o, ou,
email=digital@veritext.com, c=US
Date: 2019.04.22 12:46:07 -04'00'

Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

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Mineola, NY 11501

Date: August 30, 2018

[& - asking]

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